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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/619,496	07/16/2003	Jodi Breslin	72167.000410	8830
21967 7590 01/05/2009 HUNTON & WILLIAMS LLP INTELLECTUAL PROPERTY DEPARTMENT 1900 K STREET, N.W. SUITE 1200 WASHINGTON, DC 20006-1109				
EXAMINER				
BOYCE, ANDRE D				
ART UNIT		PAPER NUMBER		
3623				
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01/05/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/619,496

**Applicant(s)**

BRESLIN ET AL.

**Examiner**

Andre Boyce

**Art Unit**

3623

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 October 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3, 5-19, 27-29 and 31-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-19, 27-29 and 31-41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/808)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Response to Amendment***

1. This Final office action is in response to Applicant's amendment filed October 14, 2008. Claims 1, 12, 17 and 27 have been amended, while claims 4 and 30 have been canceled. Claims 1-3, 5-19, 27-29 and 31-41 are pending.
2. The previously pending objection to the declaration has been withdrawn based upon the Application Data Sheet filed October 14, 2008.  
  
The previously pending objections to claims 4, 12, 17 and 30 have been withdrawn.

***Claim Rejections - 35 USC § 102***

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. Claims 1, 2, 5-12, 17-19, 27, 28, 31-35, and 39-41 are rejected under 35 U.S.C. 102(e) as being anticipated by Borgia et al (US 2002/0129221).

As per claim 1, Borgia et al disclose a method for providing business continuity in an enterprise (i.e., disaster recovery, including business continuity, ¶ 0043) comprising: collecting resource information, the resource information describing at least one resource used by the enterprise (i.e., business operation data 102, ¶ 0038); storing in a database resource information describing the at least one resource (i.e., database server 118, ¶ 0038); assessing a criticality of the at least

one resource (i.e., risk assessment, ¶ 0039); storing the assessment of the criticality of the at least one resource in the database (i.e., database server 118, ¶ 0038); developing a recovery plan for recovery from a loss of use of the at least one resource (i.e., requirements for disaster recovery, ¶ 0043); storing the recovery plan in the database (i.e., database server 118, ¶ 0038), wherein the recovery plan aims to ensure the business continuity of the at least one resource (i.e., each application has an information policy providing requirements for disaster recovery preparedness, including business continuity, wherein business project applications 123 are resources that support business project 110, ¶¶ 0038, 0043 and figure 1); assessing the recovery plan (i.e., level of compliance, ¶ 0043); storing the assessment of the recovery plan in the database (i.e., database server 118, ¶ 0038); testing the recovery plan and recording the results of the testing (i.e., level of compliance, ¶ 0043); storing the recorded results of the testing in the database (i.e., database server 118, ¶ 0038); and providing status data from the database, wherein the status data comprises at least one of a status of: the collection of the resource data; the assessment of the criticality; the development of the recovery plan (i.e., policy status of the selected application with regard to the risk assessment, ¶ 0044); and the testing of the recovery plan.

As per claim 2, Borgia et al disclose wherein the at least one resource is a department within the enterprise (i.e., business operation broken into a number of departments, ¶ 0041), the step of collecting resource information further comprises at least one of: collecting resource information with respect to the department name;

collecting resource information with respect to the department manager (i.e., a manager responsible for a given subdivision, ¶ 0041); collecting resource information with respect to a primary location of the department; collecting resource information with respect to a recovery location of the department; collecting resource information with respect to products and services provided by the department; collecting resource information with respect to a total number of production seats required by the department; and collecting resource information with respect to a number of specialized production seals required by the department.

As per claim 5, Borgia et al disclose the at least one resource is a department within the enterprise (i.e., business operation broken into a number of departments, ¶ 0041), the step of collecting resource information further comprises at least one of: collecting resource information with respect to software applications relied on by the department (i.e., application 123, ¶ 0039); and collecting resource information with respect to external vendors relied on by the department.

As per claim 6, Borgia et al disclose the at least one resource is a department within the enterprise (i.e., business operation broken into a number of departments, ¶ 0041), wherein as part of the step of assessing the criticality of the department, a degradation of a functionality of the department is assumed, the step of assessing the criticality of the department further comprises at least one of: assessing an impact on external customers of the enterprise resulting from the degradation of the functionality of the department; assessing an impact on internal customers of the enterprise resulting from the degradation of the functionality of the department;

assessing a financial impact resulting from the degradation of the functionality of the department; assessing an allowable time period that the degradation of the functionality of the department can last; assessing an impact on regulatory obligations resulting from the degradation of the functionality of the department (i.e., compliance with federal regulations, ¶ 0046); and assessing an impact on legal obligations resulting from the degradation of the functionality of the department.

As per claim 7, Borgia et al disclose assigning specific people to fulfill roles in a case of interruption of the business of the enterprise (i.e., other assigned role members, ¶ 0042), wherein the roles include at least one of: building emergency organization chairperson; business executive (i.e., executive or manager in charge of the business operation, ¶ 0050); facilities regional manager; and human resources coordinator.

As per claim 8, Borgia et al disclose receiving acknowledgements of the acceptances of the assignments from the specific people (i.e., users responsible for particular applications can view application status, ¶ 0042).

As per claim 9, Borgia et al disclose assigning alternate people to fulfill the roles (i.e., assigned role members, ¶ 0042).

As per claim 10, Borgia et al disclose the role of building emergency organization chairperson comprises at least one of: overseeing recovery activities in the event of an emergency; providing status on the recovery activities (i.e., executive or manager able to display regulatory compliance status, ¶ 0050); prioritize resumption of critical

functions; and compiling a list of all business units in a facility and their designated assembly areas, and recovery sites.

As per claim 11, Borgia et al disclose the role of business executive comprises at least one of: assessing the enterprise's risk exposures as a result of an emergency (i.e., risk assessment, ¶¶ 0051-52 ); declaring a disaster recovery condition; and prioritizing the reentry of employees to the building.

As per claim 12, Borgia et al disclose the role of facilities regional manager comprises at least one of: ordering partial or total evacuation of a facility; determining an anticipated length of the outage of a facility; supervising activities to restore the facility (i.e., risk compliance status, which is the responsibility of the manager or executive, ¶ 0051); providing status of the facility; coordinating with local police, fire and other public safety officials.

As per claim 17, Borgia et al disclose all of the steps of the are facilitated using a software application (figure 1), the method further comprising: generating data input screens for accepting input from a user (i.e., system interface, ¶ 0039), and providing drop down boxes on the data input screens in order to facilitate selection of predefined information (i.e., question/response display, ¶ 0047).

As per claim 18, Borgia et al disclose questioning the developer of the plan as to whether it has required elements (i.e., risk assessment, ¶ 0048); and developing a corrective action plan to address missing required elements (i.e., corrective action status, ¶ 0048).

As per claim 19, Borgia et al disclose providing status data on the enterprise level (i.e., policy status of the selected application with regard to the risk assessment, ¶ 0044); providing status data on a line of business level (i.e., policy status of the selected application with regard to the risk assessment, ¶ 0044); and providing status data on a department level (i.e., policy status of the selected application with regard to the risk assessment, ¶ 0044).

Claims 27, 28, 31-35, and 39-41 are rejected based upon the same rationale as the rejections of claims 1, 2, 5-9, and 17-19, respectively, since they are the system claims corresponding to the method claims.

***Claim Rejections - 35 USC § 103***

5. Claims 3 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Borgia et al (US 2002/0129221), in view of Davenport et al (US 2004/0103431).

As per claim 3, Borgia et al does not disclose wherein a loss of use of the primary location is assumed, the steps of collecting resource information with respect to the total number of production seats and the specialized production seats further comprises at least one of: determining how many of each type of seat is required a same day as the loss of use of the primary location; determining how many of each type of seat is required a day after the loss of use of the primary location; determining how many of each type of seat is required a week after the loss of use of the primary location; and determining how many of each type of seat is required a month after the loss of use of the primary location. Davenport et al



disclose a detailed map or schematic of a floor plan of a facility, including room numbers and functions of the room (i.e., determining how many of each type of seat is required a same day as the loss of use of the primary location, ¶ 0044). It would have been obvious to one of ordinary skill in the art to include a detailed map or schematic of a floor plan of a facility, including room numbers and functions of the room in the Borgia et al system, as seen in Davenport et al, since the claimed invention is merely a combination of old elements, and in the combination each element would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Claim 29 is rejected based upon the same rationale as the rejection of claim 3 since it is the system claim corresponding to the method claim.

6. Claims 13-16 and 36-38 rejected under 35 U.S.C. 103(a) as being unpatentable over Borgia et al (US 2002/0129221), in view of Jacobs et al (USPN 5,185,697).

As per claim 13, Borgia et al does not disclose the role of human resources coordinator comprises at least one of: accounting for employees in an emergency at a facility; coordinating activities to seek out employees who are not accounted for in the emergency; generating lists of names and employee contact information for employees at the affected facility, and maintaining hard-copy printouts of employee contact information. Jacobs et al disclose crisis team members extracting information from a database including a victim's name, address, age, medical record

and closest relative (column 10, lines 25-41). It would have been obvious to one of ordinary skill in the art to include a crisis team members extracting information from a database including a victim's name, address, age, medical record and closest relative in the Borgia et al system, as seen in Jacobs et al, since the claimed invention is merely a combination of old elements, and in the combination each element would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

As per claim 14, Borgia et al disclose the at least one resource is a department within the enterprise (i.e., business operation broken into a number of departments, ¶ 0041). Borgia et al does not disclose the step of collecting resource information further comprises: collecting employee resource information with respect to the employees of the department, the employee resource information including at least three of: the employee's name; primary work location; primary work region; primary work phone number; primary work facsimile number; pager number, pager Personal Identification number, cellular phone number; home phone number; alternate home phone number, personal internet addresses; alternate work location; alternate work address; and alternate work phone number. Jacobs et al disclose crisis team members extracting information from a database including a victim's name, address, age, medical record and closest relative (column 10, lines 25-41). It would have been obvious to one of ordinary skill in the art to include a crisis team members extracting information from a database including a victim's name, address, age,

medical record and closest relative in the Borgia et al system, as seen in Jacobs et al, since the claimed invention is merely a combination of old elements, and in the combination each element would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

As per claims 15-16, neither Borgia et al nor Jacobs et al does disclose generating a wallet card for the employee using the employee resource information, wherein the wallet card is generated at a workstation of the employee, and the wallet card contains a hotline, a website, and at least one emergency location that the employee can use in an emergency. However, wallet cards are old and well known. It would have been obvious to one of ordinary skill in the art to include a wallet card in the Borgia et al system, since the claimed invention is merely a combination of old elements, and in the combination each element would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Claims 36-38 are rejected based upon the same rationale as the rejections of claims 14-16, respectively, since they are the system claims corresponding to the method claims.

### ***Response to Arguments***

7. In the Remarks, with respect to claim 1, Applicant argues that Borgia does not disclose wherein the recovery plan aims to ensure the business continuity of the at

least one resource. The Examiner respectfully disagrees and submits that Borgia et al disclose each application has an information policy providing requirements for disaster recovery preparedness, including business continuity, wherein business project applications 123 are resources that support business project 110 (§§ 0038, 0043 and figure 1), thus indeed disclosing Applicant's amended claim language.

With respect to claim 5, Applicant argues that none of the cited references disclose the at least one resource is a department within the enterprise, the step of collecting resource information further comprises at least one of: collecting resource information with respect to software applications relied on by the department; and collecting resource information with respect to external vendors relied on by the department. The Examiner respectfully disagrees and submits that Borgia et al disclose the at least one resource is a department within the enterprise (i.e., business operation broken into a number of departments, § 0041), the step of collecting resource information further comprises at least one of: collecting resource information with respect to software applications relied on by the department (i.e., application 123, § 0039); and collecting resource information with respect to external vendors relied on by the department.

### ***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andre Boyce whose telephone number is (571)272-6726. The examiner can normally be reached on 9:30-6pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Beth Boswell can be reached on (571) 272-6737. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Andre Boyce/  
Primary Examiner, Art Unit 3623  
December 31, 2008